Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at http://about.jstor.org/participate-jstor/individuals/early-journal-content.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact support@jstor.org.

UNIVERSITY OF PENNSYLVANIA LAW REVIEW

AND

AMERICAN LAW REGISTER

VOLUME 66

1917–1918

PHILADELPHIA
THE LAW SCHOOL, UNIVERSITY OF PENNSYLVANIA
1918

Copyrighted, 1917,
By the
UNIVERSITY OF PENNSYLVANIA.

TABLE OF CONTENTS.

ARTICLES.

Page

BASILICA, THE—A NINTH CENTURY ROMAN LAW CODE WHICH BECAME THE FIRST CIVIL CODE OF MODERN GREECE A THOUSAND YEARS LATER, *Charles P. Sherman* 363

CONFLICT OF LAWS UNDER THE UNIFORM PARTNERSHIP ACT AND THE UNIFORM LIMITED PARTNERSHIP ACT.....*Judson A. Crane* 310

EARLY HISTORY OF BANKRUPTCY LAW, THE.....*Louis Edward Levinthal* 223

EQUITABLE RELIEF IN CONTRACTS INVOLVING PERSONAL SERVICES..... *J. Lewis Parks* 251

FUSION OF LAW AND EQUITY, THE.....*Edward Robeson Taylor* 17

HOMICIDE COURTS OF ANCIENT ATHENS, THE....*Walter Woodburn Hyde* 319

INTERVENING IMPOSSIBILITY OF PERFORMANCE AS AFFECTING THE OBLIGATIONS OF CONTRACTS .....*William J. Conlen* 28

LOCAL AND TRANSITORY ACTIONS IN PRIVATE INTERNATIONAL LAW..... *Arthur K. Kuhn* 301

NEW READINGS OF OLD LAW.....*Margaret C. Klingelsmith* 107

ORIGIN OF THE RULE AGAINST UNJUST DISCRIMINATION, THE..... *Benjamin M. Kline* 123

PENNSYLVANIA PRACTICE ACT OF 1915, THE.....*David Werner Amram* 195

PROCEDURAL REFORM IN THE FEDERAL COURTS.....*Everett P. Wheeler* 1

REGULATION OF WATER CARRIERS, THE.....*Henry Hull* 95

SURETY, THE .....*William H. Loyd* 40

BOOK REVIEWS.

Page

AMERICAN CITY PROGRESS AND THE LAW.....*Howard Lee McBain* 385

ARGENTINE CIVIL CODE, TOGETHER WITH CONSTITUTION AND LAW OF CIVIL REGISTRY, THE.....(*Translated by Frank L. Joannini*) 180

CARNEGIE ENDOWMENT YEAR BOOK, THE 193

CASES AND READINGS ON THE JURISDICTION AND PROCEDURE OF THE FEDERAL COURTS .....*George W. Rightmire* 193

CASES ON FUTURE INTERESTS AND ILLEGAL CONDITIONS AND RESTRAINTS, *Albert M. Kales* 299

CASES ON THE LAW OF PERSONAL PROPERTY.....*Harry A. Bigelow* 188

CASES ON THE LAW OF PRIVATE CORPORATIONS.....*Daniel F. Burnett* 194

CLASSICS OF INTERNATIONAL LAW 384

CRIMINALITY AND ECONOMIC CONDITIONS.....*William Adrian Bonger* 382

CRIMINAL SOCIOLOGY .....*Enrico Ferri* 177

CRIMINOLOGY .....*Maurice Parmelee* 387

DECISIONS OF THE UNITED STATES COURTS INVOLVING COPYRIGHTS..... 388

EQUITY AND ITS REMEDIES .....*Charles Neal Barney* 192

EQUITY IN ITS RELATIONS TO COMMON LAW.....*W. B. Billson* 296

GUIDE TO THE LAW AND LEGAL LITERATURE OF ARGENTINA, BRAZIL AND CHILE .....*Edwin M. Borchard* 300

LAW AND PRACTICE IN BANKRUPTCY UNDER THE NATIONAL BANKRUPTCY ACT OF 1898 .....*William Miller Collier* 190
(*Eleventh Edition by Frank B. Gilbert*)

LAW APPLIED TO MOTOR VEHICLES, THE.....*Charles J. Babbitt* 294
(*Second Edition by Arthur W. Blakemore*)

LAW OF THE PUBLIC SCHOOL SYSTEM OF THE UNITED STATES.....
Harvey Cortlandt Voorhees 194

LAW OF WILLS AND THE MANNER OF THEIR DRAFTING, EXECUTION, PROBATE AND CONTEST, TOGETHER WITH TESTAMENTARY FORMS.....
George W. Thompson 189

LAW RELATING TO TRADING WITH THE ENEMY, TOGETHER WITH A CONSIDERATION OF THE CIVIL RIGHTS AND DISABILITIES OF ALIEN ENEMIES AND OF THE EFFECT OF WAR ON CONTRACTS WITH ALIEN ENEMIES...
Charles Henry Huberich 388

MENTAL CONFLICTS AND MISCONDUCT.....*William Healey* 292

Page

PRINCIPLES OF LABOR LEGISLATION ..... *John R. Commons and John B. Andrews* 297

PROCEEDINGS OF THE SIXTH NATIONAL CONFERENCE OF THE AMERICAN SOCIETY FOR THE JUDICIAL SETTLEMENT OF INTERNATIONAL DISPUTES, 192

PROSECUTION OF JESUS, ITS DATE, HISTORY AND LEGALITY, THE..... *Richard Wellington Husband* 380

PSYCHOLOGY OF SPECIAL ABILITIES AND DISABILITIES, THE..*A. F. Bronner* 297

PUBLIC DEFENDER, THE .....*Mayer C. Goldman* 187

ROMAN LAW IN THE MODERN WORLD.....*Charles P. Sherman* 289

STANDARDS OF AMERICAN LEGISLATION.....*Ernst Freund* 285

TRADADO DE DERECHO INTERNATIONAL.....*S. Planas Suarez* 90

TREATISE ON FEDERAL IMPEACHMENTS, A.....*Alexander Simpson, Jr.* 282

TREATISE ON THE AMERICAN AND ENGLISH WORKMEN'S COMPENSATION LAWS .....*Arthur B. Honnold* 298

TREATISE ON THE LAW OF CONVERSION, A.....*Renzo D. Bowers* 295

TREATISE ON THE LAW OF INHERITANCE TAXATION, WITH PRACTICE AND FORMS, A.....*Lafayette B. Gleason and Alexander Otis* 194

TREATISE ON THE LAW OF TELEGRAPH AND TELEPHONE COMPANIES, INCLUDING ELECTRIC LAW (Second Edition).....*S. Walter Jones* 299

TREATISE ON THE POWER OF TAXATION, STATE AND FEDERAL, IN THE UNITED STATES (Second Edition).....*Frederic N. Judson* 191

UNFAIR COMPETITION .....*William H. S. Stevens* 185

"WAIVER" DISTRIBUTED AMONG THE DEPARTMENTS, ELECTION, ESTOPPEL, CONTRACT AND RELEASE .....*John S. Ewart* 183

WORKMEN'S COMPENSATION LAW JOURNAL 386

INDEX.

Figures in the first column refer to ARTICLES; in the second column, to NOTES; in the third column, to RECENT CASES; and in the fourth column, to BOOK REVIEWS.

A.

ACCIDENTAL INJURY.

	A.	N.	R. C.	B. R.
See MASTER AND SERVANT.				

ACT OF GOD.

See TORTS.

ACTIONS.

See INTERNATIONAL LAW.

ALIEN ENEMIES.

Civil rights and disabilities of				388

ARREST.

Liability for, in actions for negligence.....		368		

B.

BANKRUPTCY.

Early history of bankruptcy law.....	223			
Bankruptcy as an institution of historical and comparative jurisprudence	224			
Collective Execution	225			
Fraud on creditors	227			
Management of estate	227			
Bankruptcy in the Middle Ages	241			
Early Italian law	241			
Early German law	244			
Early French law	244			
Early Dutch law	245			
Early Spanish law	246			
Mediaeval Jewish law	248			
Debtor and creditor in primitive society.....	228			
General proprietary execution	235			
Individual proprietary execution.....	233			
Management of the debtor's estate	240			
Prevention of fraud in ancient law	237			
Transition from execution against the person to execution against the property	232			
Law and practice in bankruptcy				190
Property to which trustee gets title—Insurance policies			171	

BILLS AND NOTES.

Duress—Threats of prosecution			172	
Illegal consideration			82	
Material alteration—Indorser's liability			374	
See also PROPERTY.				

	A.	N.	R. C.	B. R.
BLACKSTONE.				
Latin passage in		164		
C.				
CARRIERS.				
Liability of, for loss of, or damage to, interstate shipments transported on rates dependent on value or valuation		166		
Regulation of water carriers	95			
Taxicab as a common carrier		71		
See also MASTER AND SERVANT.				
CIVIL RIGHTS.				
Places of public accommodation, resort or amusement			375	
CIVIL PROCEDURE.				
See PRACTICE.				
CODES.				
Argentine civil code, together with constitution and law of civil registry				180
The Basilica, a ninth century Roman Law Code, see ROMAN LAW.				
COMPARATIVE JURISPRUDENCE.				
See BANKRUPTCY.				
CONFLICT OF LAWS.				
Conflict of laws under the Uniform Partnership Act and Uniform Limited Partnership Act,	310			
CONSTITUTIONAL LAW.				
Impairment of contract obligations and public service commissions			83	
CONTRACTS.				
Intervening impossibility of performance as affecting the obligations of	28			
Liability for inducing breach of			279	
Void contract as measure of right to recover		157		
With alien enemies, as affected by the war				388
See also EQUITY.				
COPYRIGHTS.				
Decisions of United States courts involving				388
CORPORATIONS.				
Cases on the law of				194

	A.	N.	R. C.	B. R.
COURTS.				
Cases and readings on the jurisdiction of the federal courts				193
Homicide courts of ancient Athens, the	319			
Procedural reform in federal courts	1			
CRIMINAL LAW.				
Criminality and economic conditions				382
Criminal sociology				177
Mental conflicts and misconduct				292
CRIMINAL PROCEDURE.				
Indictment and information—Accessories before the fact indicted as principals		160		
Prosecution of Jesus				380
Public defender, the				187
CRIMINOLOGY.				
Criminal sociology				177
Criminology				387
Mental conflicts and misconduct				292
Psychology of special abilities and disabilities				297
D.				
DAMAGES.				
Measure of, in action by wife for sale of intoxicating liquor to husband			87	
Void contract as measure of		157		
DISCRIMINATION.				
Origin of the rule against unjust	123			
In America	137			
In England	125			
DURESS.				
See BILLS AND NOTES.				
E.				
EASEMENTS.				
Scope of grant			86	
ELECTRIC LAW.				
Treatise on the law of telegraph and telephone companies, including electric law				299
EQUITY.				
Equity and its remedies				192
Equity in its relations to common law				296

	A.	N.	R. C.	B. R.
Equitable relief in contracts involving personal services	251			
Fusion of law and equity, the	17			
EVIDENCE.				
Dying declarations			274	
F.				
FEDERAL COURTS.				
Procedural reform in	1			
FEDERAL EMPLOYERS' LIABILITY ACT.				
Injury to railway employee			85	
FOREIGN LAW.				
Guide to the law and legal literature of Argentina, Brazil and Chile				300
See also BANKRUPTCY.				
H.				
HUSBAND AND WIFE.				
Action by wife for sale of liquor to husband			87	
I.				
IMPEACHMENTS.				
Treatise on federal				282
INSURANCE.				
Policies of, right of trustee in bankruptcy to			171	
INTERNATIONAL LAW.				
Classics of				384
Local and transitory actions in private international law	301			
Proceedings of the conference of the American society for the judicial settlement of international disputes				192
Tradado de derecho international				90
INTERSTATE COMMERCE.				
Jurisdiction over water carriers	95			
Liability of common carriers for loss of, or damage to, interstate shipments transported on rates dependent on value or valuation		166		
Liability of labor unions under Sherman Anti-Trust Act		267		
Regulation of water carriers	95			
INTOXICATING LIQUOR.				
Action by wife for sale of, to husband			87	

	A.	N.	R. C.	B. R.
J.				
JURORS.				
New readings of old law	107			
L.				
LANDLORD AND TENANT.				
Furnished lodgings—Implied warranty as to fitness of tenant			83	
LAW.				
American city progress and				385
Fusion of, with equity	17			
Law and practice in bankruptcy				190
Law applied to motor vehicles				294
Law of the public school system of the United States				194
Law of wills and the manner of their drafting				189
Law reform as affected by the war		70		
New readings of old law	107			
LABOR UNIONS.				
Liability of, for restraint of trade		267		
LEGISLATION.				
Principles of labor legislation				297
Standards of American legislation				285
LIMITED PARTNERSHIPS.				
See CONFLICT OF LAWS.				
M.				
MASTER AND SERVANT.				
Parent's liability for torts of child—Injuries from automobile			173	
Workmen's Compensation Acts—				
Accidents arising out of the employment			84	
Recovery for disease			174	
Treatise on American and English Acts				298
N.				
NEGLIGENCE.				
Contributory—"Last clear chance" doctrine		73		
Degrees of			275	
Gratuitous undertaking—Liability to a social guest,			277	
Liability for arrest for		368		

A. N. R.C. B.R

NEGOTIABLE INSTRUMENTS.

See BILLS AND NOTES.

P.

PARTNERSHIP.

See CONFLICT OF LAWS.

PENNSYLVANIA.

Practice Act of 1915 195

PRACTICE.

Pennsylvania Practice Act of 1915 195
Affidavit of defense based on contract oral or in writing 209
Affidavit of defense by executor 205
Affidavit of defense by municipalities 208
Affidavit of defense in trespass 212
Appeal from judgment of justice of the peace.. 199
Constitutionality of the act 196
Content and form of pleadings 201
Division into paragraphs 201
Endorsement of statement of claim 207
Endorsement on affidavit of defense containing counterclaim 214
Exhibiting copies 203
Form of judgment on statutory demurrer..... 218
Form of statutory demurrer 218
Judgment for want of an affidavit of defense before the return day of the writ 210
Motions for judgment 216
Oral or in writing 206
Plaintiff asking for an account 207
Plaintiff's reply 212
Procedure not affected by the Practice Act.... 200
Proofs under the pleadings 215
Scope of the act: application to pending proceedings 197
Service of affidavit of defense 208
Service of statement of claim 206
Setting down the statutory demurrer for hearing 219
Specific denial 203
Statement of claim: brevity 205
Statutory demurrer 217
Striking pleadings from the record 219
Sufficiency of statement of claim in trespass... 202
Summary 221

	A.	N.	R. C.	B. R
PRINCIPAL AND AGENT.				
Recovery by undisclosed principal			280	
PROPERTY.				
Cases on future interests and illegal conditions and restraints				299
Cases on the law of personal property				188
Easements—Scope of grant			86	
Execution and attestation of wills			89	189
Rent notes as personalty or realty			376	
Treatise on the law of conversion				295
PUBLIC SERVICE COMMISSIONS.				
See CONSTITUTIONAL LAW.				
PUBLIC SERVICE CORPORATIONS.				
Origin of the rule against unjust discrimination	123			
R.				
RATES.				
Dependent on value or valuation		166		
RESTRAINT OF TRADE.				
Liability of labor union for		267		
ROMAN LAW.				
Basilica, the—A ninth century Roman Law Code which became the first civil code of modern Greece a thousand years later	363			
Roman law in the modern world				289
S.				
SHERMAN ANTI-TRUST ACT.				
Liability of labor unions for restraint of trade		267		
SURETYSHIP.				
Surety, the	40			
T.				
TAXATION.				
Treatise on the power of, state and federal				191
Treatise on the law of inheritance taxation				194
TELEGRAPH AND TELEPHONE COMPANIES.				
Treatise on the law of				299

	A.	N.	R. C.	B. R
TORTS.				
Contributory negligence and "last clear chance" doctrine		73		
Injury while attempting to protect others			377	
Intoxicating liquors—Action by wife for sale of liquor to husband			87	
Liability for accidental fire—Act of God			87	
Liability for inducing breach of contract			279	
Liability to a trespasser on the premises of a third party			378	
Negligence—Who may receive—Undisclosed principal			280	
Trespass—Action for death of human being		77		
Unfair competition				185
See also NEGLIGENCE.				
TRADING WITH THE ENEMY.				
Law relating to				388
TRUSTEE.				
See BANKRUPTCY.				
U.				
UNITED STATES COURTS.				
Decisions of, involving copyrights				388
W.				
WAIVER.				
"Waiver" distributed among the departments, election, estoppel, contract and release				183
WILLS.				
Execution—Attestation			89	
Law of wills and the manner of their drafting, execution, probate and contest				189
WORKMEN'S COMPENSATION ACTS...				
Treatise on American and English acts				298
Accidents arising in the course of employment			84	
Recovery for disease			174	
Workmen's Compensation Law Journal				386
See also MASTER AND SERVANT.				
Y.				
YEAR BOOK.				
Carnegie Endowment				193

TABLE OF CASES.

Figures in the first column refer to NOTES; in the second column, to RECENT CASES.

	N.	R. C.
Adams *v.* Rogasner	368	
Admiralty *v.* S. S. Amerika	77	
Albert, Poss *v.*		376
Alpena Leather Co., Dove *v.*		174
Anderson *v.* Fidelity & Casualty Co. of N. Y.	71	
Arras Bros., Gibbs *v.*		375
Atlantic Coast Line Rwy. Co. *v.* Tredway's Adm'x		85
Ashby, City of Henderson *v.*		379
Bache-Denman Coal Co. Case	267	
Blair *v.* Broadwater		173
British Columbia Rwy. Co. *v.* Loach	76	
Broadwater, Blair *v.*		173
City of Henderson *v.* Ashby		379
Coker, Whitehead *et al. v.*		82
Davis, Hill *v.*		89
Dove *v.* Alpena Leather Co.		174
Dowd *v.* United Mine Workers of America	267	
Fidelity & Casualty Co. of N. Y., Anderson *v.*	72	
Fitzroy, Massalatti *v.*		275
Fitzroy, Massalatti *v.*		277
Gibbs *v.* Arras Bros.		375
Hall, Homan *v.*		279
Hammond *v.* Hammond		86
Hill *v.* Davis		89
Homan *v.* Hall		279
Humphreys *v.* Miller		84
In re Samuels		171
John Stewart & Son, Ltd., *v.* Longhurst		84
Kohler *v.* Savage		172
Live Stock Classification	169	
Loach, British Columbia Rwy. Co. *v.*	76	
Longhurst, John Stewart & Son, Ltd., *v.*		84
Lowden, Western Union Tel. Co. *v.*		280
Massalatti *v.* Fitzroy		275
Massalatti *v.* Fitzroy		277
Miller, Humphreys *v.*		84
National Bank *v.* Wood		374
People *v.* Snyder	162	
Pilcher *v.* State		274
Poss *v.* Albert		376

	N.	R. C.
Puget Sound Traction Co. *v.* Reynolds		83
Railroad *v.* West	160	
Reynolds, Puget Sound Traction Co. *v.*		83
Rogasner, Adams *v.*	368	
Savage, Kohler *v.*		172
Schaffer, Strong *v.*		87
Shaw & Co. *v.* Symmons & Son		88
Snyder, People *v.*	162	
State, Pilcher *v.*		274
S. S. Amerika, Admiralty *v.*	77	
Strong *v.* Shaffer		87
Symmons & Son, Shaw & Co. *v.*		88
Telephone Co., Workman *v.*		377
Tredway's Adm'x, Atlantic Coast Line Rwy. Co. *v.*		85
United Mine Workers of America, Dowd *v.*	267	
West, Railroad *v.*	160	
Western Union Telegraph Co. *v.* Lowden		280
Whitehead *et al. v.* Coker		82
Wood, National Bank *v.*		374
Workman *v.* Telephone Co.		377